



DENNIS C. MILANOVICH
First Selectman

STATE OF CONNECTICUT • COUNTY OF TOLLAND
INCORPORATED 1786

TOWN OF ELLINGTON

55 MAIN STREET • P.O. BOX 187
ELLINGTON, CONNECTICUT 06029-0187
TEL 870-3100 FAX 870-3102

www.ellington-ct.gov

DENNIS W. FRAWLEY
Deputy First Selectman

PETER J. CHARTER
MARK D. LEIGHTON
A. LEO MILLER, JR.
MICHAEL P. STUPINSKI
NANCY O. WAY

BOARD OF SELECTMEN Special Meeting April 25, 2005 Meeting Hall – Town Hall

SELECTMEN PRESENT: Peter Charter, Dennis Frawley, Dennis Milanovich, Mark Leighton,
A. Leo Miller, Michael Stupinski and Nancy Way

OTHERS PRESENT: Building Official: P. Williams, Town Attorney: S. Boyan; Stan
Maztak; Hartford Courant, Journal Inquirer, Reminder Press

I. CALL TO ORDER:

First Selectman Milanovich called the meeting of the Board of Selectmen (BOS) to order at 7:45 p.m.

II. DISCUSSION OF BUILDING DEPARTMENT MATTERS

Mr. Milanovich referenced letters sent to Peter Williams from Nancy Way and Peter Charter dated January 23, 2005 and March 8, 2005 and Mr. Williams' responses dated January 26, 2005 and March 13, 2005 (**letters attached**). He stated that in late March Ms. Way and Mr. Charter requested that the issues in the letters be discussed at a BOS meeting.

Ms. Way stated that she questioned Mr. Williams regarding the process he uses to verify the cost of a project and he replied that there was none. Ms. Way stated that she contacted the former Building Official, Mr. Connelly, and he indicated that he had a specific process to verify cost estimates. Mr. Charter referenced a letter he received from the State Building Inspector dated April 5, 2005 (**attached**) in which he states that Section 112.3 of the State Building Code authorizes the local building official to establish a schedule of unit rates upon which the building permit fee is based. Mr. Williams responded that the basic rating system is outlined in the State Building Code; however, Town Ordinance states the fee schedule is based on estimated cost. Mr. Milanovich stated that there is a level of trust that is implied when applying for permit.

Mr. Charter questioned why in certain cases for residential permits that Mr. Williams told the applicant that the estimate was too low. Mr. Williams responded that if an estimate appears to be low he will ask the applicant if it includes the cost of labor as the total cost of a project must include materials and labor. He may also ask an applicant to provide a copy of the written estimate to back up the cost.

Mr. Williams stated that he has prepared an outline to change the ordinance to base a building permit fee on type and size of construction. Mr. Milanovich stated that there were 5 commercial

building permits in 2003 and 3 in 2004. He noted that commercial buildings are considered custom construction. Mr. Williams stated that Towns that have a lot of commercial development audit the cost and adjust the building permit fees at time of the CO. Mr. Charter questioned why that system is not used in Ellington. Mr. Williams stated that it is not cost effective to audit every job and noted that such a change would require the ordinance to be adjusted. Mr. Miller suggested utilizing the construction estimate system of Marshall & Swift. Mr. Milanovich asked Mr. Williams to draft a standardized system and to bring the methodology to the BOS for review.

Ms. Way referenced the fee for re-inspections. She stated that in reviewing the Building Department records she could not find any evidence of charges for this service. Mr. Williams explained that this charge is used for blatant offenses when contractors call for inspections and are not ready. Ms. Way stated that it is not clear in the ordinance that this is the intention of the re-inspection fee. Mr. Leighton suggested the wording be revised to state "may" charge, rather than "shall" charge.

Ms. Way referenced a memo Mr. Williams sent to Mr. Stupinski in 2002 stating a conflict of interest regarding the SJM project; however, he failed to state the financial interest as required in Section 1203 of the Town Charter. She stated that if Mr. Williams recused himself he should not have had anything to do with the project. Mr. Williams stated that he did not do the inspections; however, when cleaning up the files he did sign the inspection cards.

Mr. Stupinski referenced the letter from the State Building Official stating that the Town cannot hire a Building Official unless there is a vacancy and arrangements with an adjoining town should be made to cover in the absence of the Building Official. Mr. Williams stated that he was on vacation for 3 ½ weeks. The Building Official in East Windsor, who normally covers for him, had died so the BOS approved the hiring of Ms. Pierce and Mr. Schofner. He was not comfortable with the situation or signing the cards which prompted him to develop the recently approved mutual agreement with Stafford and Somers. Ms. Way stated that it is troubling that there is no proof that Mr. Schofner did the inspections. Mr. Williams stated that he has been unable to locate Mr. Schofner to have him verify the signature cards. Mr. Miller stated that the person who inspected the work should sign the cards and hoped that this practice is an exception and not the norm. Mr. Williams stated that this is an exception and such action will not be repeated because of the mutual agreement.

Ms. Way asked Mr. Williams why he asked Mr. Milanovich to do some inspections at SJM. Mr. Williams explained that during his absence in 2002, he asked Mr. Milanovich to perform a couple of inspections as a Licensed Registered Engineer. Mr. Charter referenced the letter from the State Building Official which states that building inspections can only be performed by individuals holding the appropriate inspection license issued by the Department of Public Safety. Mr. Williams responded by pointing out that it is accepted practice to have testing laboratories and engineers observe and report to the Building Official.

Ms. Way noted problems with Building Department staff and record keeping. Mr. Williams stated that there is a backlog with filing in his office, some of which is hindered by the fact that the files are stored in another building. His secretary has to go to the Town Hall vault to pull files. He is in the process of using overtime with Town Hall employees to straighten out the filing system.

Ms. Way questioned the number of hours per week Mr. Williams works. Mr. Williams stated that it varies by workload.

Ms. Way stated that she has questions regarding Mr. Williams' interaction with staff and suggested the BOS go into Executive Session so not to impact the staff member. Mr. Milanovich stated that the Union Contract and Town Charter has specific procedures, and an appeal process, in place to address complaints or allegations against a certain employee. Ms. Way will submit her questions according to the established procedure.

Mr. Williams stated that the building inspection system is not easy to understand and apologized if any of his answers were misleading.

III. ADJOURNMENT:

MOVED (LEIGHTON), SECONDED (CHARTER) AND PASSED UNANIMOUSLY TO
ADJOURN THE MEETING OF THE BOARD OF SELECTMEN AT 9:26 P.M.

Submitted by



Marie Sauve

Approved by



Dennis C. Milanovich

TOWN OF ELLINGTON
RECEIVED

JAN 25 2004

FIRST SELECTMAN'S
OFFICE

January 23, 2005

Mr. Peter Williams
Building Official
Town of Ellington
55 Main Street
Ellington, CT 06029

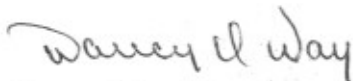
Dear Mr. Williams:

As you know, we have been following up on information about the way your office handled construction of the building at 162 Maple Street owned by SJM Properties. We reviewed many documents and have a number of questions that we request that you answer and items we would like you to clarify:

1. The Application for General Building Permit showed an original estimated cost of \$375,000 and a fee of \$4,500, but these numbers were reduced to \$275,000 and \$3,300. Who changed them and why?
2. The application for plumbing permit PP-2003-0030 estimates the cost of the work at \$8,000 but the fee charged was only \$10.00. Please explain why.
3. The application for electrical permit EP-2003-0065 estimates the cost of the work at \$20,000 but the fee charged was only \$10.00. Please explain why.
4. The fee for permit MP-2003-0153 for the HVAC work was only \$10.00. Please explain why.
5. Why aren't the permits consistently filled out with all information? The new computer permit system should make complete information easy to enter.
6. Please verify that the signatures on the inspection card dated 8/19/02 are those of Mr. Schofner and Ms. Pierce.
7. We understand you sent a letter to First Selectman Stupinski saying that you had a personal relationship with Mr. Matczak, and that you would not be doing inspections on this job, etc. Please provide a copy of that letter.

8. Can you tell us who designed this building?
9. Finally, on December 12, 2000 Building Department fees were set at \$12 per \$1,000 of estimated cost, with a minimum fee of \$35. When did you begin applying these new fees?

Thank you for your help.



Nancy Way, Selectman



Peter Charter, Selectman



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BUILDING DEPARTMENT

TEL.: (860) 870-3124 FAX: (860) 870-3122

TOWN OF ELLINGTON
RECEIVED

JAN 27 2004

FIRST SELECTMAN'S
OFFICE

January 26, 2005

Selectman Nancy Way & Peter Charter
516 Somers Road
Ellington Ct. 06029

Ref: 162 Maple Street

In response to your concerns and questions about the project at 162 Maple Street, I have listed your questions followed by my answers. It is not often that the Building Department has an opportunity to explain its actions and I personally welcome all questions and comments. Without a clear understanding of code enforcement and corresponding dialog misconceptions can and will arise.

Question 1 Who changed the cost of construction and why ?.

The applicant changed the cost of construction after finding out that the development cost, site improvements: paving, landscaping, drainage, etc. are not part of the cost of the building when calculating the fee for a building permit

Question 2, 3 and 4 Why only \$10 for mechanical permits?

On new home construction and new commercial construction the Building Department tries to get the entire fee upfront and then only charges the \$10 min fee for the mechanical permit.

Question 5 Why are some areas of the permits forms not filled out?

The computer forms are generic in nature. The software is all encompassing. We do not use all the items on the forms, to do so would add considerable administrative time without much benefit.

Question 6 Verify signatures on inspection card dated 8/19/02?

The initials on the card are PRW, because I was the Building Official at the time I signed the cards stating that the inspections were made. I also signed the Certificate of Occupancy after inspections were made by others.

Question 7 Request letter to Mr. Stupinski ...
Copy of letter enclosed.

Question 8 Who designed the building?

The Design Engineering was done by TRP, Inc. the layout plans were done by Ken Ballasy.

Question 9 When did you begin applying these fees?
When the ordinance was approved.

Question 1,2,3,4 & 9 Bring out the need for a better way to manage and establishing the fees for a Building Permits, this is an ongoing problem and the present system is at best an area of misconceptions. I understand the problem but do not have a solution formulated to present to the town for its review at this time.

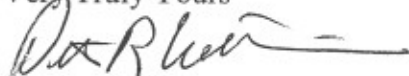
Questions 5& 6 Are directly related to the level of staffing and the need for a better record keeping system. The Building Department has an inspection staff of one, which presents problems when there is a need for backup. The newly adopted mutual aid agreement with Somers and Stafford should greatly reduce this problem.

Record keeping is one area that needs attention. We have tried a number of solutions over the past years with limited success. The implementation of a computer based permit system, adding staff and part time work have made it possible to keep up with the currant work load only.

Questions 7 & 8 Takes on the "Favoritism Factor" that is always present in a small town. The problem is not unique to the Building Official or Ellington, but is an ever present dilemma to all Town Employees, Selectmen, and Committee Members.

I would say that almost everyone, friends included, have asked me to help them in one way or another with their building projects. I try to limit my Building Official responses to administration procedures and code questions. When a person asks a question which is outside of my official duties, such as what can I do with this building, I will note to them that any advice given is on a personal level.

Very Truly Yours



Peter R. Williams
Building Official

Cc: Dennis Milanovich, First Selectman



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BUILDING DEPARTMENT

TEL.: (860) 870-3124 FAX: (860) 870-3122

MEMORANDUM

DATE: May 7, 2002
TO: Michael P. Stupinski, First Selectman
FROM: Peter Rafe Williams, Building Official
SUBJECT: 162 Maple Street

Due to my close relationship to the owners of 162 Maple Street and the possibilities of any conflict of interest I will not be acting as the Building Official for this property. All correspondence should be directed through Maureen O'Neil of the Building Department for proper action.

PRW/mvo

CC: Joseph Baker, Town Planner
Reanna Leite, Assistant Planner
Atherton B. Ryan, Town Attorney
Allan L. Lawrence, Fire Marshal
North Central District Health Department

March 8, 2005

Mr. Peter Williams
Building Official
Town of Ellington
55 Main Street
Ellington, CT 06029



Dear Mr. Williams:

Thank you for your response to our January 23rd letter about the SJM Properties building at 162 Maple Street. Some things about this project and your part in it are still unclear, however, and we ask your help with the following questions:

1. We are still concerned about the cost of \$275,000 used to establish the fee for the building.
 - What process did you use in verifying this cost?
 - Were construction drawings used in the process?
 - What evidence is there that the cost was verified?
2. How can it be explained that the cost estimate for this building is approximately \$27 per square foot, while the estimated cost for the new construction portion of a Pinney Road fire house is \$150 per square foot (see the plans submitted to the state to support a grant for that job)?
3. About your relationship with SJM:
 - Have you had any financial interest in the SJM project or other interests of its owners?
 - Have you leased storage space from them?
 - Have you had any business relationship with them?
 - Did you do any site work at the SJM facility?
4. When you were unavailable to act as Building Official, did Dennis Milanovich ever act as Building Official or sign a Certificate of Occupancy and, if so, on what project, when, and was he certified to do that?

5. At the December 10, meeting of the BOS you said that a solution to establishing permit fees was in hand. Why did you say in your letter you do not have a solution to present?
6. You say in your letter that backup is needed on inspection work because of staffing.
 - Who did the inspections on the SJM inspection cards?
 - What were they paid?
 - What were their qualifications?
 - Please provide signed statements from those who did the inspections verifying that they did them.
7. At the BOS meeting you said that you signed the CO only.
 - Why did you sign the inspection cards when others did the actual work?
 - Another signature appears on the cards that seems to be Mr. Schofner's. Why was he apparently able to sign for himself?
 - What information did you use in signing for work performed by others if you did not see the inspection performed?
8. As far as filling out forms, some are completed and some are not. This appears to be a personnel problem, not a record keeping system problem. Looking at these records leaves us with a question of why they are so inconsistent. This is not the practice in the Town Clerk's office or the Tax Collector's office.

Thank you again for your help.

Nancy Way, Selectman



Peter Charter, Selectman



cc: Dennis Milanovich, First Selectman
Board of Selectmen



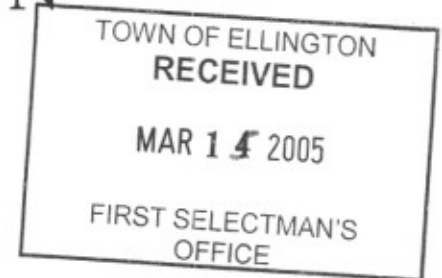
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March 13, 2005

Selectmen Nancy Way & Peter Charter
516 Somers Road
Ellington Ct. 06029

In response to your concerns and questions in your letter dated March 8, 2005, I have summarized your questions followed by my comments.

Item 1

What process did you use to verify cost?

None, there is no town ordinance or regulation that requires this to be done.

Were drawings used in process?

No process was done.

What evidence is there that the cost was verified...?

None, there is no town ordinance or regulation that requires this to be done.

Item 2

...explain cost estimate...?

Different buildings and different estimators

Item 3

Have you had any financial interest in the SJM project...?

No

or other interests of its owners?

Yes, as a friend, landlord and neighbor

Have you leased storage space from them?

Yes

Have you had any business relationship with them?

None, other than rental of storage/garage space.

Did you do any site work at the SJM facility...?

No

Item 4

Did DM ever act as a Building Official or sign a Cert...?

No, He did back in the summer of 2002 a couple of inspections as a Licensed Registered Engineer that I used to verify that work was done when I was unavailable which was pre-approved by the then 1st Selectman Mr. Michael Stupinki

Item 5

Solution was in hand... Why did you say ...?

Because I did not have it completed, the process of suggesting a change in the town's ordinances along with anticipation ramifications has taken longer than anticipated.

Item 6

Who did inspections.....?

A number of people, including Special Inspectors - Independent Testing Labs, Engineer of Record - TRP Inc. , Provincial Building Inspector- Fred Schofner , Town Engineer- Jim Thompson, Town Fire Marshal - Allen Lawrence ,Town Public Works Director- Peter Michaud, Building Inspector - Paula Pierce

What were they paid?

Varied

What were their qualifications?

Varied

Provide signed Statements...

There are signed statements for all major inspections in the file.

Item 7

Why did you sign card ...?

The inspections were done by others, as I stated, I signed the card because I was confident that all work and inspections were done to code.

Mr. Schofner's signing...?

Mr. Schofner was the Ellington Provincial Building Official at the time.

What information did you use in signing for work performed by others.....?

Their written reports and verbal statements.

Item 8

Apparent inconsistencies in department operations....

As stated in my first response, record keeping is one area that needs attention.

We have tried a number of solutions over the past years with limited success. The implementation of a computer based permit system, adding staff and part-time work have made it possible to keep up with the current work load only.

Very Truly Yours



Peter R. Williams
Building Official

Cc: Dennis Milanovich, First Selectman

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC SAFETY
DIVISION OF FIRE, EMERGENCY & BUILDING SERVICES
OFFICE OF THE STATE BUILDING INSPECTOR



April 5, 2005

Peter Charter
516 Somers Rd.
Ellington, CT 06029



*submitted
w/ lps meeting*

Dear Mr. Charter,

The following is offered in response to your letter to me which was undated but received in this office on March 24, 2005 in which you ask several questions regarding administration of the State Building Code. I have based my responses on the BOCA National Building Code/1996 portion of the 1999 State Building Code. For brevity I have not repeated your questions, but my responses utilize the same numbering system as your questions. I enclose a copy of your questions for reference.

1. To my knowledge no specific regulation or statute exists giving guidance to the local building official with respect to challenging stated construction costs or values. Section 112.3 authorizes the local building official to establish, by approved rules, a schedule of unit rates upon which the building permit fee is based. Such approved rules could be in the form of a local ordinance regulating fees and how they are determined. Assuming the local building official determined the fee in accordance with the local ordinance he would be in compliance with the code.

2. No. Building inspections can only be performed by individuals holding the appropriate inspection license issued by the Department of Public Safety (DPS).

3. Section 105.4 states that the building official shall either make all of the required inspections, or shall accept reports of approved agencies or individuals. Again, the intent of the code is that the person making the inspection hold the appropriate DPS license. The inspections performed by others must be approved by the local building official.

4. DPS has no record of a license issued to Frederick Schofner. A building official license was issued to Paula Pierce on May 8, 2003. She also holds a license as an assistant building official.

Telephone (860) 685-8310
1111 Country Club Road P.O. Box 2794
Middletown, CT 06457-9294
<http://www.state.ct.us/dps/dfebs>
An Equal Opportunity Employer

5. A provisional building official is a person appointed by a municipality for a period of 90 days in order to give them time to take, and pass, the DPS examination to become a building official. During the provisional term, they have all duties, powers and responsibilities of the building official, but if they do not pass the examination, their appointment lapses and they are ineligible for reappointment in the same jurisdiction. The intent of a provisional appointment is to allow a municipality flexibility in appointing an individual to fill a vacancy for building official, not to use it to add additional staff. Please note that despite the classification of license staff members may hold, each municipality may only have one person appointed as building official. For example a town may employ two people, each of whom holds a DPS building official license, but one of them is the building official and the other is the assistant building official.

6. There is no provision for the Office of the State Building Inspector to take original jurisdiction for a project not owned by the State in any municipality, regardless of a conflict of interest with the local building official, nor does this office have the staff available to do so. The appropriate path to follow is to make an arrangement with an adjoining town to have their department cover, or for the municipality to hire an individual with the appropriate DPS license to ~~do plan review, construction inspections~~ and issue the certificate of occupancy for the building in question.

Regards,



Christopher R. Laux, A.I.A.
State Building Inspector

Enclosure: Charter letter to Laux

Copy : by FAX to Mr. Charter @ 860 871-2861

Peter Charter
516 Somers Rd
Ellington CT 06029

MAR 24 2005

Christopher R. Laux
Office of State Building Inspector
1111 County Club Rd
P.O. Box 2794
Middletown CT 06457-9294
(860) 685-8310

Dear Mr. Laux

My name is Peter J. Charter and I have been a member of the Board of Selectman for Ellington CT for the last 10 years. I with another selectman, Nancy Way, have been concerned about the commercial square footage estimates that have been done for SJM projects in Ellington. We are concerned about the certification of the inspectors and feel the estimates of construction costs are continuously low which in return result in low building fees. It would be very helpful if the following questions could be answered in writing by April 8, 2005.

1. Is there any state regulation or procedure that allows the Ellington Building Official to question the estimate on construction costs of a commercial building at the time of issuing a building permit? (These estimates as you know, are used to establish building fees.)
2. Can a person who is a licensed registered engineer conduct building inspections without being properly certified as a building inspector?
3. Can the building officials sign off on inspections that were conducted by other inspectors? Who is officially supposed to sign off inspections?
4. Are the following persons certified inspectors; and if so what are their effective dates.
Frederick F. Schofner - NO LICENSE
PaulinePierce BO - 5/8/03
PAULA
5. What is a provisional building official and can they conduct inspections?
6. Can a building official with a financial conflict of interest on a project in Ellington ask for state assistance in conducting building inspections after he recused himself from the project?

Thank you for your assistance concerning these matters. If you have any questions please do not hesitate to call me at H (860) 875-1062 or cell (860) 490-7366 or Nancy Way at H (860) 871-0218

Sincerely